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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,731	08/10/2000	Jerry Thomas Moore	9283/001	9120

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EXAMINER

ROWAN, KURT C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/636,731

Applicant(s)
MOORE

Examiner
KURT ROWAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 22, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 23-25, 40, and 41 is/are pending in the application.
- 4a) Of the above, claim(s) 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 23-25, 40, and 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 22, 2003 has been entered.

Claim Rejections - 35 U.S.C. § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-18, 23-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not support the base piece covering less than 50% of the chest of a normal adult. The term "chest fly box" is a term of art but that does not necessarily distinguish it from other fishing tackle containers such as a chest

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pack. Hence the examiner maintains this rejection since no support is found for the less than 50% limitation.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-18, 23-25, 40-41 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "the inside of the fly box" in line 10. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 25 recites the limitation "the inside" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 U.S.C. § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

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skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimler in view of Gillespie.

The patent to Wimler shows a chest fly box system having base 6, a harness 7 that secures the base piece to the chest of a fisherman with the base resting on the front of the chest as shown in Figs. 1-2. The base covers less than 50% of the chest. Wimler discloses a hinge in column 1, lines 43-47 that also as a fastener to secure the fly box to the base piece and to permit movement of the fly box from a horizontal to a vertical position as shown in Figs. 1-2. The hinge/fastener can inherently releasably secure a fly box so that it can be accessed without removing it from the base piece. In reference to claim 1, Wimler shows all of the elements recited with the exception of the fastener adapted so that a fly box can be removed from the base piece without using a tool. The patent to Gillespie shows a fly box 56 adapted to be removed from a base piece 36 without using a tool noting Fig. 1 since the fly box and the base have complementary hook and loop fasteners 84. In reference to claim 1, it would have been obvious to provide Wimler with hook and loop fasteners as shown by Gillespie so that the fly box could be removed without using a tool for the purpose of convenience under fishing conditions. Wimler can access the inside of the fly box without removing it from the base piece as shown in fig. 2. In reference to claim 4, Wimler shows all of the dimensions recited. In reference to claim 40, the fly box of Wimler as

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modified by Gillespie shows a fly box wherein the fastener can be released while all parts of the fastener remain attached to either the fly box or the base piece.

9. Claims 3, 5-6, 23-25, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimler in view of Gillespie as applied to claim 1 above, and further in view of Hutton. The patents to Wimler, Gillespie, and Hutton show chest fly boxes. Wimler has been discussed above and does not show a fishing rod holder. Hutton shows a fishing rod holder 142 mounted on the fly box support 102 and being configured to hold the fishing rod in a horizontal position. In reference to claims 3, 5, 6, it would have been obvious to provide Wimler as modified by Gillespie with a fishing rod holder as shown by Hutton for the purpose of maintaining the rod while changing tackle such as re-rigging a broken fishing line as disclosed by Hutton in column 4, lines 8-11. In reference to claims 23-24, Hutton shows a bracket rod holding mechanism that can be considered as a U-shaped trough, but it would have been obvious to employ other configurations such as a clamp since the function is the same and no stated problem was solved. In reference to claim 25, the combination of Wimler in view of Gillespie as modified by Hutton shows all of the elements recited with the exception of the fly box support and the fishing rod holder being integrally made. Hutton does not disclose that they are integrally made, but it would have been obvious to integrally form the fly box support and the fishing rod holder. See *In re Larson et al.*, 144 USPQ 347. Wimler can access the inside of the fly box without removing the fly box from the base piece. In reference to claim 41, see the rejection of claim 40, above.

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10. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Volmer. The patent to Volmer shows a chest fly box as shown in Fig. 9 which shows a base piece, a harness, a hinge 112, and a fastener 92. Volmer shows all of the elements recited with the exception of the base piece covers less than 50% of the chest in a normal adult human. However, it would have been obvious to make the chest fly box to the desired size since changes in size merely constitute routine experimentation. See *In re Rose*, 105 USPQ 137.

Allowable Subject Matter

11. Claims 7-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the rejection under 35 U.S.C. 112, first paragraph is overcome.

12.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN** whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Kurt Rowan". The signature is written in a cursive, flowing style.

KURT ROWAN

PRIMARY EXAMINER

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September 4, 2003